ESTTA Tracking number:

ESTTA466445 04/11/2012

Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Hulleon Records, Inc.		
Entity	Corporation	Citizenship	Michigan
Address	321 Hazelhurst Ferndale, MI 48220 UNITED STATES		

Attorney information	Jeffrey H. Brown Michael Best & Friedrich LLP 180 N. Stetson, Suite 2000 Chicago, IL 60601 UNITED STATES
	jhbrown@michaelbest.com Phone:312.222.5794

Applicant Information

Application No	85444140	Publication date	03/20/2012
Opposition Filing Date	04/11/2012	Opposition Period Ends	04/19/2012
Applicant	Triboro Quilt Manufacturing C 172 South Broadway White Plains, NY 10605 UNITED STATES	orporation	

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Pants; Shirts; Sleeping garments; Underwear

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2833343	Application Date	12/27/2002
Registration Date	04/13/2004	Foreign Priority Date	NONE
Word Mark	JUSTUS BOYZ		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 041. First use: First Use: 2003/01/01 First Use In Commerce: 2003/06/01		
	record production services[; entertainment services, namely, live performances by a musical group]		
U.S. Registration	2835493	Application Date	12/27/2002
No.	2000 100	7 Application Bato	12/21/2002
Registration Date	04/20/2004	Foreign Priority Date	NONE
Word Mark	JUSTUS BOYZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use	e: 2003/01/01 First U	se In Commerce: 2003/06/01
	musical sound recordings; pre	e-recorded audio-visi	ual recordings featuring music
II.O. Davidonii	0005404	Analianti - Det	40/07/0000
U.S. Registration No.	2835494	Application Date	12/27/2002
Registration Date	04/20/2004	Foreign Priority Date	NONE
Word Mark	JUSTUS BOYZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use	e: 2003/01/01 First U	se In Commerce: 2003/05/01
	clothing, namely, caps, hats, jackets, jerseys, shirts, shorts, sweatshirts, and t-shirts		
U.S. Registration	2978608	Application Date	03/17/2003
No.	2978000	Application Date	03/17/2003
Registration Date	07/26/2005	Foreign Priority Date	NONE
Word Mark	JUSTUS GIRLZ	.	1
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/05/01 First Use In Commerce: 2003/05/01		
	clothing, namely, caps, hats, jerseys, shirts and t-shirts		
II.C. Docietastia	2002700	Application Dete	05/04/0040
U.S. Registration No.	3903798	Application Date	05/24/2010
Registration Date	01/11/2011	Foreign Priority Date	NONE
Word Mark	JUSTUS		
	•		

Design Mark	JUSTUS
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2010/05/21 First Use In Commerce: 2010/05/21 Clothing, namely, underwear

Attachments	85046286#TMSN.jpeg (1 page)(bytes) 11233292_Notice_of_Opposition_JUST_BOYS_85-444140.PDF (12 pages
)(449364 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey H. Brown/
Name	Jeffrey H. Brown
Date	04/11/2012

I hereby certify that this Notice of Opposition is being transmitted by the Electronic System for Trademark Trials and Appeals to the United States Patent and Trademark Office on April 11, 2012.

Sina Billotto	
Gina Bilotto	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trade	emark Applicant:)	
Triboro Quilt Manufa	cturing Corporation)	
Serial No. :	85/444140)	
Filed :	October 11, 2011)	
Mark:	JUST BOYS)	
Published in the O	fficial Gazette dated March 20, 2012		
Hulleon Records, Inc	.,)	
Oppos	ser,)	
V.)	Opp. No.
Triboro Quilt Manufa	cturing Corporation,)	
Applic	ant.)	

NOTICE OF OPPOSITION

Hulleon Records, Inc. ("Opposer"), a Michigan corporation, believes that it will be damaged by the registration of the mark JUST BOYS shown in Serial No. 85/444140 for the following goods: *Pants; Shirts; Sleeping garments; Underwear* ("Applicant's Mark"), by Triboro Quilt Manufacturing Corporation ("Applicant"), and hereby opposes the registration of said application.

As grounds of opposition, Opposer alleges:

- 1. For many years, and long before Applicant's actual or constructive first use of Applicant's Mark, Opposer has continuously used, and presently uses in interstate commerce throughout the United States the trademarks JUSTUS BOYZ in connection with clothing, namely, caps, hats, jackets, jerseys, shirts, shorts, sweatshirts, and t-shirts, and JUSTUS GIRLZ in connection with clothing, namely, caps, hats, jerseys, shirts and t-shirts. For many years, and long before Applicant's actual or constructive first use of Applicant's Mark, Opposer has continuously used, and presently uses in interstate commerce throughout the United States the trademark JUSTUS BOYZ in connection with musical sound recordings; pre-recorded audiovisual recordings featuring music and record production services. For many years, and long before Applicant's actual or constructive first use of Applicant's Mark, Opposer has continuously used, and presently uses in interstate commerce throughout the United States the trademark JUSTUS in connection with clothing, namely, underwear (collectively, the JUSTUS BOYZ, JUSTUS GIRLZ and JUSTUS marks are referred to as the "JUSTUS Marks").
- 2. Opposer is the owner of Reg. No. 2,835,494 for the mark JUSTUS BOYZ (for clothing, namely, caps, hats, jackets, jerseys, shirts, shorts, sweatshirts, and t-shirts). Opposer is also the owner of JUSTUS BOYZ Reg. No. 2,835,493 (for musical sound recordings; pre-recorded audio-visual recordings featuring music) and JUSTUS BOYZ Reg. No. 2,833,343 (for record production services) (singularly, the "JUSTUS BOYZ Mark", collectively, the "JUSTUS BOYZ Marks"). Opposer is also the owner of Reg. No. 2,978,608 (for clothing, namely, caps, hats, jerseys, shirts and t-shirts) for the mark JUSTUS GIRLZ (the "JUSTUS GIRLZ Mark"). Opposer is also the owner of Reg. No. 3,903,798 (for clothing, namely, underwear) for the mark JUSTUS (the "JUSTUS Mark"). A copy of information regarding these registrations printed from the United States Patent and Trademark Office ("USPTO") web site are attached as Exhibit A to this Notice of Opposition and are incorporated herein by this reference.

- 3. Opposer began using the JUSTUS BOYZ Mark for clothing, namely, caps, hats, jackets, jerseys, shirts, shorts, sweatshirts, and t-shirts at least as early as May 1, 2003. On December 27, 2002, Opposer filed its application for federal registration of the JUSTUS BOYZ Mark and on April 20, 2004, the USPTO issued Reg. No. 2,835,494. Opposer began using the JUSTUS GIRLZ Mark for clothing, namely, caps, hats, jerseys, shirts and t-shirts at least as early as May 1, 2003. On March 17, 2003, Opposer filed its application for federal registration of the JUSTUS GIRLZ Mark and on July 26, 2005, the USPTO issued Reg. No. 2,978,608.
- 4. Opposer began using the JUSTUS Mark for clothing, namely, underwear at least as early as May 21, 2010. On May 24, 2010, Opposer filed its application for federal registration of the JUSTUS Mark and on January 11, 2011, the USPTO issued Reg. No. 3,903,798.
- 5. Opposer has, at great expense, continuously engaged in the sale and promotion of clothing, namely, caps, hats, jackets, jerseys, shirts, shorts, sweatshirts, and t-shirts and record production services under and in connection with the JUSTUS BOYZ Marks. Opposer has, at great expense, continuously engaged in the sale and promotion of clothing, namely, caps, hats, jerseys, shirts and t-shirts under and in connection with the JUSTUS GIRLZ Mark. Opposer has, at great expense, continuously engaged in the sale and promotion of clothing, namely, underwear under and in connection with the JUSTUS Mark.
- 6. Opposer has, at great expense, extensively and continuously offered to the public high quality goods and services under the JUSTUS Marks. By reason of such efforts and by virtue of the excellence of the goods and services sold under the JUSTUS Marks, the public and trade have come to recognize the JUSTUS Marks as signifying Opposer and the goods and services offered under the JUSTUS Marks, and Opposer enjoys exceedingly valuable goodwill in connection with the goods and services offered under and in connection with the JUSTUS Marks.

- 7. The mark proposed for registration by Applicant, is confusingly similar in sight, sound, meaning, and commercial impression to the JUSTUS Marks which have been used in interstate commerce prior to any use or application for trademark registration by Applicant.
- 8. On information and belief, Applicant intends to use Applicant's Mark in connection with goods that are the same or similar to goods offered by Opposer under its JUSTUS Marks.
- 9. If Applicant is permitted to use and register its JUST BOYS mark for its goods as specified in the application herein opposed, such registration and use by Applicant are likely to cause confusion, deception and mistake, and will seriously damage Opposer. Persons familiar with the JUSTUS Marks would be likely to buy Applicant's goods as and for goods made and sold by Opposer. Any such confusion in trade inevitably would result in loss of sales to Opposer. Furthermore, any defect or fault found with Applicant's goods marketed under Applicant's Mark would reflect upon and seriously injure the reputation which has been established for the goods sold under the JUSTUS Marks.
- 10. If Applicant were granted the registration herein opposed for the goods herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of Applicant's Mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that Applicant's application, Serial No. 85/444140, be rejected, and that the mark therein sought for the goods specified therein be denied and refused.

The Opposer hereby consents and appoints Jeffrey H. Brown and Luke DeMarte, members of the bar of the State of Illinois, whose address is Michael Best & Friedrich LLP, 180 N. Stetson Avenue, Suite 2000, Chicago, IL 60601, as its duly authorized agents and attorneys in the matter of the opposition above-identified to prosecute said opposition, to transact all business in the Patent and Trademark Office and in the United States courts in connection with

this opposition, to sign its name to all papers which may hereafter be filed in connection therewith, and to receive all communications related to the same.

Dated: April 11, 2012 Respectfully submitted,

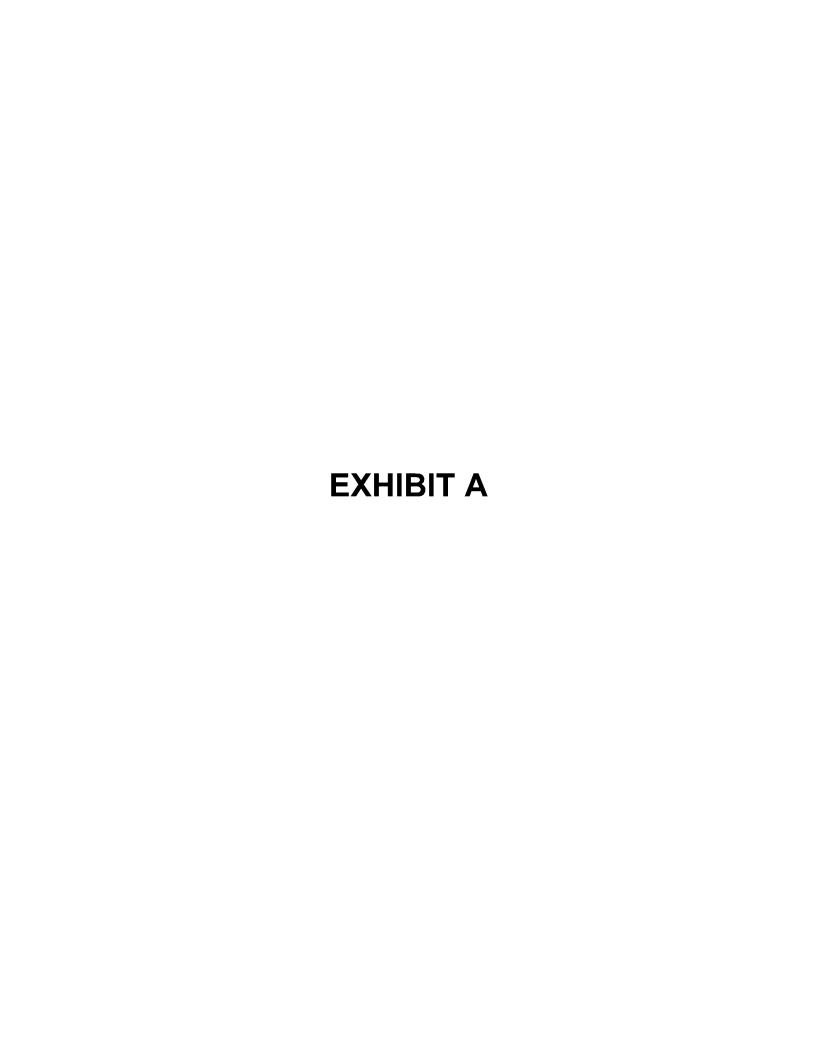
Hulleon Records, Inc.

By: _____ One of its Attorneys

Jeffrey H. Brown Luke W. DeMarte Michael Best & Friedrich LLP 180 N. Stetson Avenue, Suite 2000 Chicago, IL 60601 (312) 222-0800

Attorneys for Hulleon Records, Inc.

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Typed Drawing

Word Mark JUSTUS BOYZ

Goods and IC 041. US 100 101 107. G & S: record production services[; entertainment services, namely, live performances

Services by a musical group]. FIRST USE: 20030101. FIRST USE IN COMMERCE: 20030601

Mark Drawing

(1) TYPED DRAWING Code

Serial Number 78198306

Filing Date December 27, 2002

1A Filing Basis **Original Filing** 1B

Basis Published for

Opposition

September 16, 2003

April 13, 2004

Registration 2833343 Number **Registration Date**

Owner (REGISTRANT) Hulleon Records, Inc. CORPORATION MICHIGAN 321 W. Hazelhurst Ferndale MICHIGAN

48220

Attorney of Record Jeffrey H. Brown

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BOYS" APART FROM THE MARK AS SHOWN Disclaimer

SERVICE MARK Type of Mark **PRINCIPAL** Register **Affidavit Text** SECT 8 (6-YR).

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Typed Drawing

Word Mark JUSTUS BOYZ

Goods and Services IC 009. US 021 023 026 036 038. G & S: musical sound recordings; pre-recorded audio-visual recordings featuring music.

FIRST USE: 20030101. FIRST USE IN COMMERCE: 20030601

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78198304

Filing Date December 27, 2002

Filing Basis 1A Original Filing Basis 1B

Published for

Opposition

September 16, 2003

Registration 2835493

Number

April 20, 2004

Registration Date April 20,

Owner (REGISTRANT) Hulleon Records, Inc. CORPORATION MICHIGAN 321 W. Hazelhurst Ferndale MICHIGAN 48220

Attorney of Record Jeffrey H. Brown

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE BOYS APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK
Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

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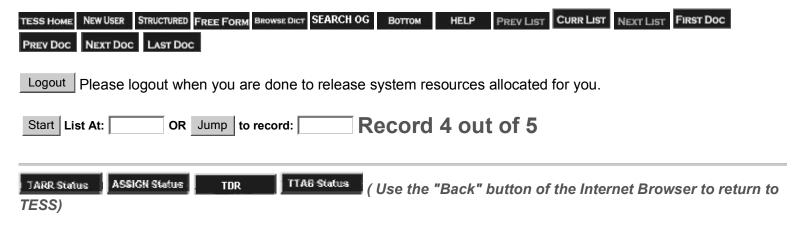
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Typed Drawing

Word Mark JUSTUS BOYZ

Goods and Services IC 025. US 022 039. G & S: clothing, namely, caps, hats, jackets, jerseys, shirts, shorts, sweatshirts, and t-shirts.

FIRST USE: 20030101. FIRST USE IN COMMERCE: 20030501

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78198305

Filing Date December 27, 2002

Filing Basis 1A Original Filing Basis 1B

Published for Opposition September 16, 2003

Registration Number 2835494 International Registration

Number 0849857

Mailibei

Registration Date April 20, 2004

Owner (REGISTRANT) Hulleon Records, Inc. CORPORATION MICHIGAN 321 W. Hazelhurst Ferndale MICHIGAN 48220

Attorney of Record Jeffrey H. Brown

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE BOYS APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK
Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

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Typed Drawing

Word Mark JUSTUS GIRLZ

Goods and Services IC 025. US 022 039. G & S: clothing, namely, caps, hats, jerseys, shirts and t-shirts. FIRST USE: 20030501. FIRST

USE IN COMMERCE: 20030501

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78226576 Filing Date March 17, 2003

Filing Basis 1A
Original Filing Basis 1B

Published for

Opposition December 30, 2003

Registration Number 2978608 **Registration Date** July 26, 2005

Owner (REGISTRANT) Hulleon Records, Inc. CORPORATION MICHIGAN 321 W. Hazelhurst Ferndale MICHIGAN 48220

Attorney of Record Jeffrey H. Brown

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GIRLS" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK
Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

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ASSIGN Status

Word Mark JUSTUS

Goods and Services IC 025. US 022 039. G & S: Clothing, namely, underwear. FIRST USE: 20100521. FIRST USE IN

COMMERCE: 20100521

TDR

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85046286 Filing Date May 24, 2010

Filing Basis 1A
Original Filing Basis 1A

Published for Opposition October 26, 2010

Registration Number 3903798 International Registration Number 1059222

Registration Date January 11, 2011

Owner (REGISTRANT) Hulleon Records, Inc. CORPORATION MICHIGAN 321 Hazelhurst Ferndale

MICHIGAN 48220

Attorney of Record Jeffrey H. Brown
Prior Registrations 2835494;2978608
Type of Mark TRADEMARK
Register PRINCIPAL

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CERTIFICATE OF SERVICE

The undersigned certifies that on April 11, 2012 the foregoing Notice of Opposition was served upon Applicant's Correspondent by depositing a copy of said document in the U.S. mail in an envelope addressed to:

KARIN SEGALL LEASON ELLIS LLP 1 BARKER AVE FL 5 WHITE PLAINS, NY 10601-1523

Jeffrey H. Brown

John Bun